

## Federal Acquisition Regulation

37.502

receipt of those payments. This determination may be appropriate, for example, if it encourages greater competition or participation of small business concerns.

### Subpart 37.4—Nonpersonal Health Care Services

SOURCE: 54 FR 5056, Jan. 31, 1989, unless otherwise noted.

#### 37.400 Scope of subpart.

This subpart prescribes policies and procedures for obtaining health care services of physicians, dentists and other health care providers by nonpersonal services contracts, as defined in 37.101.

#### 37.401 Policy.

Agencies may enter into nonpersonal health care services contracts with physicians, dentists and other health care providers under authority of 10 U.S.C. 2304 and 41 U.S.C. 253. Each contract shall—

(a) State that the contract is a nonpersonal health care services contract, as defined in 37.101, under which the contractor is an independent contractor;

(b) State that the Government may evaluate the quality of professional and administrative services provided, but retains no control over the medical, professional aspects of services rendered (e.g., professional judgments, diagnosis for specific medical treatment);

(c) Require that the contractor indemnify the Government for any liability producing act or omission by the contractor, its employees and agents occurring during contract performance;

(d) Require that the contractor maintain medical liability insurance, in a coverage amount acceptable to the contracting officer, which is not less than the amount normally prevailing within the local community for the medical specialty concerned; and

(e) State that the contractor is required to ensure that its subcontracts for provisions of health care services, contain the requirements of the clause at 52.237-7, including the maintenance of medical liability insurance.

#### 37.402 Contracting officer responsibilities.

Contracting officers shall obtain evidence of insurability concerning medical liability insurance from the apparent successful offeror prior to contract award and shall obtain evidence of insurance demonstrating the required coverage prior to commencement of performance.

[62 FR 237, Jan. 2, 1997]

#### 37.403 Contract clause.

The contracting officer shall insert the clause at 52.237-7, Indemnification and Medical Liability Insurance, in solicitations and contracts for nonpersonal health care services. The contracting officer may include the clause in bilateral purchase orders for nonpersonal health care services awarded under the procedures in part 13.

### Subpart 37.5—Management Oversight of Service Contracts

SOURCE: 62 FR 12694, Mar. 17, 1997, unless otherwise noted.

#### 37.500 Scope of subpart.

This subpart establishes responsibilities for implementing Office of Federal Procurement Policy (OFPP) Policy Letter 93-1, Management Oversight of Service Contracting.

#### 37.501 Definition.

*Best practices*, as used in this subpart, means techniques that agencies may use to help detect problems in the acquisition, management, and administration of service contracts. Best practices are practical techniques gained from experience that agencies may use to improve the procurement process.

#### 37.502 Exclusions.

(a) This subpart does not apply to services that are

(1) Obtained through personnel appointments and advisory committees;

(2) Obtained through personal service contracts authorized by statute;

(3) For construction as defined in 2.101; or

(4) Obtained through interagency agreements where the work is being